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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

BENJAMIN DENT,

Plaintiff,

v.

BEATLE, *et al.*,

Defendants.

Case No. 2:20-cv-00294-JAD-BNW

**MOTION TO STAY THE SEPTEMBER 30,
2021 DISPOSITIVE DEADLINE**

Defendant, Frank Beedle, by and through counsel, Aaron D. Ford, Nevada Attorney General, and Christopher M. Guy, Deputy Attorney General, hereby submits Defendant's Motion to Stay the September 30, 2021 Dispositive Deadline.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

This case is a prison civil rights action brought by inmate Benjamin Dent (Dent) asserting a claim arising under 42 U.S.C. §1983. Pursuant to the screening order, Dent was only allowed to proceed on an Eighth Amendment excessive force claim against Ely State Prison (ESP) correctional officer Frank Beedle (Beedle). ECF No. 6 at 10.

On July 21, 2021, Dent filed a motion for leave to amend his First Amended Complaint. ECF No. 21. Defendant filed an opposition, which argued that amendment was futile and that under 28 U.S.C. § 1915A(a) and 42 U.S.C. § 1997e(c) the proposed Second Amended Complaint (SAC) Required mandatory screening.

1 In the opposition, Defendant noted that neither § 1915A(e)(2) and § 1997e(c) are restricted to
 2 pleadings. ECF No. 22 at 4. Indeed, the provisions provide that the court shall dismiss “the case at any
 3 time if the court determines,” § 1915(e)(2), “if the court is satisfied,” § 1997e(c)(1), or if “on its face,” §
 4 1997e(c)(2), the claim is frivolous, malicious, fails to state a claim. *Id.* Dent filed his reply on August 3,
 5 2021.

6 In light of the pending mandatory screening and motion for leave to amend, Defendant
 7 respectfully requests that this case be stayed until the pending screening and ruling are issued. Pursuant
 8 to this Court’s Scheduling Order, dispositive motions are due September 30, 2021. ECF No. 16 at 3. A
 9 stay will allow the parties and the court to preserve resources, and a stay would provide the fairest course
 10 of action for the parties pending a resolution on the above pending issues.

11 **II. LEGAL DISCUSSION**

12 This Court has broad discretion to stay proceedings as an incident to its power to control its own
 13 docket. *Clinton v. Jones*, 520 U.S. 681, 706-07 (1997) (citing *Landis v. N. Am. Co.*, 299 U.S. 248, 254,
 14 (1936)). These inherent powers include “the power to stay proceedings . . . to control the disposition of
 15 the causes of its docket with economy of time and effort for itself, for counsel, and for litigants.”
 16 *Dependable Hwy Exp., Inc. v. Navigators Ins. Co.*, 498 F.3d 1059, 1066 (9th Cir. 2007) (quoting *Landis*,
 17 299 U.S. at 254). Stays are particularly appropriate to be considered when doing so is “the fairest course
 18 of action for the parties ... pending resolution of independent proceedings which bear upon the case.”
 19 *Dependable, supra* (quoting *Leyva v. Certified Grocers of California, Ltd.*, 593 F.2d 857, 863–64 (9th
 20 Cir. 1979)). These independent proceedings include other judicial proceedings. *Id.*

21 Here, in light of the pending action required under § 1915A(e)(2) and § 1997e(c) and the pending
 22 motion for leave to amend, a stay will allow the parties and the court to preserve resources, and a stay
 23 would provide the fairest course of action for the parties pending a resolution on the above pending issues.
 24 Depending on this Court’s screening of the SAC, additional parties may be added or if this Court finds
 25 that the case is frivolous, malicious, or fails to state a claim the case may be dismissed.

26 Therefore, in the interest of judicial economy and economy for counsel and litigants, the
 27 Defendant respectfully requests that the Court stay the dispositive deadline until the pending screening
 28 and ruling are issued.

1 **III. CONCLUSION**

2 Accordingly, in the interest of judicial economy and economy for counsel and litigants, the
3 Defendants respectfully request that the Court stay the dispositive deadline, September 30, 2021, until
4 the pending screening and ruling are issued.

5 DATED this 16th day of September, 2021.

6 AARON D. FORD
7 Attorney General

8 By: /s/ Christopher M. Guy
9 CHRISTOPHER M. GUY (Bar No. 15239)
Deputy Attorney General

10 *Attorneys for Defendant Frank Beedle*

11 **Order**

12 ECF No. 24 is denied without
13 prejudice for failure to meet
and confer. See LR 26-6(c).

14 IT IS SO ORDERED

DATED: 10:53 am, September 17, 2021

15 

16 BREND A WEKSLER
UNITED STATES MAGISTRATE JUDGE

CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Office of the Attorney General, and that on September 16, 2021, I electronically filed the foregoing **MOTION TO STAY THE SEPTEMBER 30, 2021 DISPOSITIVE DEADLINE**, via this Court's electronic filing system. Parties who are registered with this Court's electronic filing system will be served electronically.

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Plaintiff, Pro Se

/s/ Diane Resch
Diane Resch, an employee of the
Office of the Nevada Attorney General